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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/621,817	07/17/2003	Richard C. Sweeney	47099-00135USPT	1283
28763	7590	04/27/2005		
WINSTON & STRAWN LLP 1700 K STREET, N.W. WASHINGTON, DC 20006			EXAMINER SZUMNY, JONATHON A	
			ART UNIT	PAPER NUMBER
			3632	
DATE MAILED: 04/27/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/621,817

Applicant(s)

SWEENEY, RICHARD C.

Examiner

Jon A Szumny

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 January 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 January 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

This is the second office action for application number 10/621,817, Cup Holder Having Frusto-Conical Cavities, filed on July 17, 2003.

Claim Objections

Claim 13 is objected to because of the following informalities:

In line 3, "bottom" should be --a bottom--.

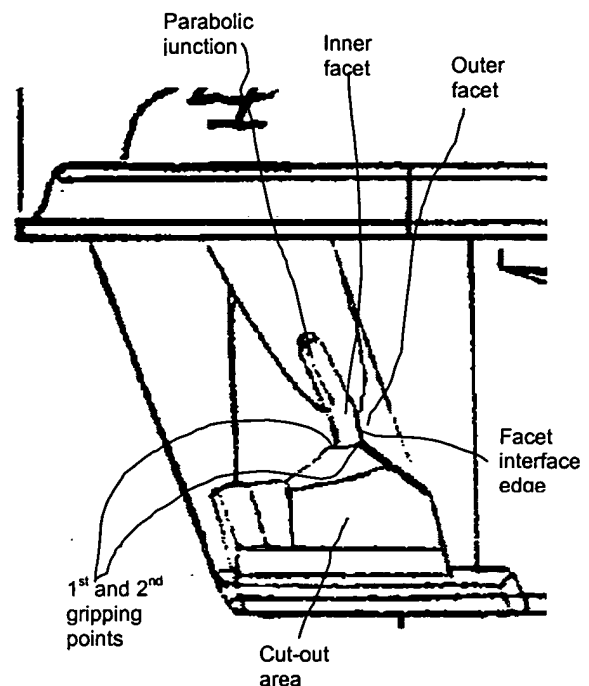
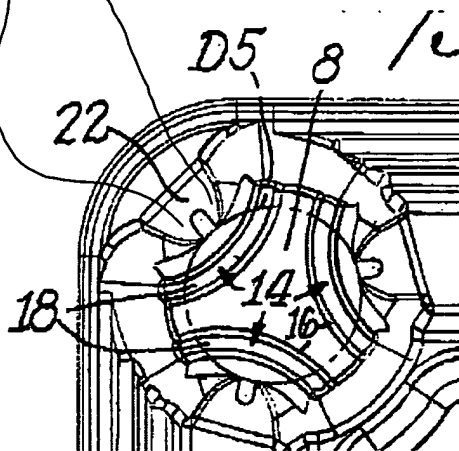
Appropriate correction is required.

Claim Rejections - 35 USC § 102

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1 and 3-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Letourneau et al. '056.

1st and 2nd
gripping
flanges



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Letourneau et al. '056 discloses a cupholder (figures 1-3) constructed of a molded fiber material (column 3, lines 61-63) which comprises a plurality of frusto-conical cavities (10) each having a curved inner wall, three holding extensions (22, generally) extending inwardly towards a center of the cavity from the inner wall and spaced equidistantly, first and second gripping flanges (above) having first and second gripping points at lower ends thereof (above) and extending inwardly towards each other for gripping a container, and inner and outer facets (above); wherein the inner and outer facets have a facet interface edge (above) therebetween; wherein the inner facets of the flanges meet at a parabolic junction (above) along a top end thereof; wherein the holding extensions terminate at a cut-out area (above) such that the cut-out area is below the gripping flanges; wherein the base is narrower than the mouth of the cavity and has raised portions (14) with gripping regions (16) which include support regions (18); wherein the facet interface edge joints the gripping flanges along an upper end thereof, wherein the frusto-conical shape extends from a cavity mouth at a top end of the cavity to a cavity base at a bottom end of the cavity, wherein the gripping points inherently are adapted to provide a gripping force toward each other when a container is inserted into one of the cavities, wherein the raised portion of the cavity base and the flanges of each holding extension oppose each other across a rim gripping region, wherein the cupholder/cavity of Letourneau et al. '056 can perform all stated functions.

Response to Arguments

Applicant's arguments filed January 3, 2005 have been fully considered but they are not persuasive.

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On page 10 of the response, the applicant contends, "Letourneau does not disclose...a cupholder having first and second gripping flanges extending inwardly from at least one holding extension, each of said...flanges having inner and outer facets...meeting at a facet interface edge." The Examiner disagrees. In order to assist the applicant in understanding how the cupholder of Letourneau et al. '056 clearly teaches/shows all such elements, the Examiner has included the above drawings clearly indicating all claimed elements of the applicant's invention. It is noted that due to space restrictions, the Examiner only indicated, for instance, inner and outer facets for a single gripping flange.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jon A Szumny whose telephone number is (571) 272-6824. The examiner can normally be reached on Monday-Friday 8-4.

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The fax phone number for the organization where this application and proceeding are assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-3600.

A handwritten signature in black ink, appearing to read 'Jon Szumny', with a long horizontal flourish extending to the right.

Jon Szumny
Patent Examiner
Technology Center 3600
Art Unit 3632
April 19, 2005